

- 16 -

REMARKS

The Examiner has revised the current rejection in light of new prior art and a reformulated rejection. As set forth below, such new rejection is still deficient. However, despite such deficiencies and in the spirit of expediting the prosecution of the present application, applicant has at least substantially incorporated the subject matter of at least one dependent claim into each of the independent claims. Since the subject matter of such dependent claim was at least substantially considered by the Examiner, it is asserted that such claim amendments would not require new search and/or consideration.

The Examiner has rejected Claims 7-13, 16-24, 27, 34-40, 43-51, 54, 61-67, 70-78, and 81 under 35 U.S.C. 103(a) as being unpatentable over Hruska et al. (U.S. Patent No. 6,195,587), in view of Le Pennec et al. (U.S. Patent No. 6,892,303). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove to the independent claims. Specifically, applicant has amended the independent claims to include at least a portion of the subject matter of dependent Claim 13 et al.

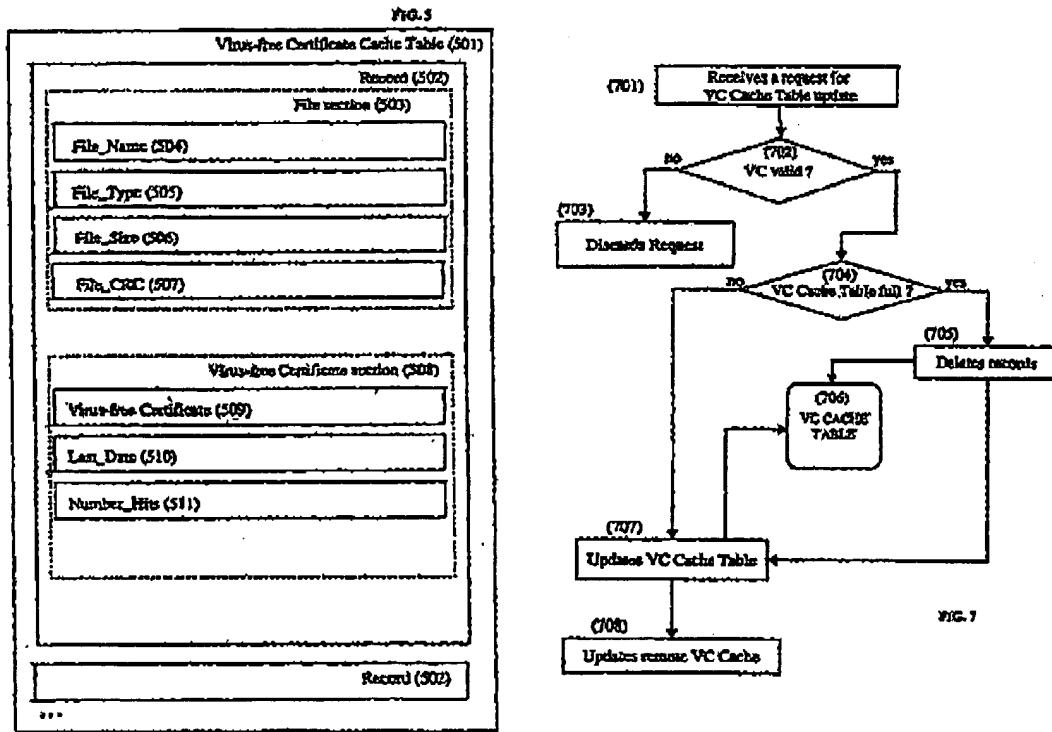
With respect to the independent claims, the Examiner has relied on the following excerpts from Hruska and Le Pennec to make a prior art showing of applicant's claimed technique "wherein said assessment computer stores a database of computer files and said database includes for each computer file a persistence flag indicating whether an entry relating to said computer file should be purged from said database during purge operations" (see this or similar, but not necessarily identical language in the independent claims).

"If the file is then authorized by the supervisor, its checksum as calculated by the file server is added to the file server's list of checksums of authorized files (box 27) and a report message is returned to the relevant workstation indicating that access to the file can be allowed (box 22)." (Hruska, Col. 5, lines 14-18 - emphasis added)

- 17 -

"This procedure may be used in addition to the inclusion in files of data indicating whether the file has been authorized or barred from use (not illustrated in FIGS. 3a or 3b)." (Hruska, Col. 5, lines 22-25 - emphasis added)

"It is an object of the present invention to improve current anti-virus checking methods and to provide a new method using file Certificates similar to X.509 Certificates used to authenticate an identity. A specific process associates a Certificate, called virus-free Certificate (VC), with a file in order to speed up and improve the virus detection." (Le Pennec, Col. 5, lines 29-34 - emphasis added)



(Le Pennec, Fig. 5, and Fig. 7)

Applicant respectfully asserts that the excerpts from Hruska relied upon by the Examiner merely teach that "[a file's] checksum...is added to the file server's list of checksums of authorized files" and that "[t]his procedure may be used in addition to the inclusion in files of data indicating whether the file has been authorized or barred from use." However, Hruska's disclosure of an authorized file's checksum being stored in a file server's list of checksums in no way suggest a technique "wherein said assessment computer stores a database of computer files" (emphasis added), as claimed by applicant.

- 18 -

Clearly a list of checksums, where such checksums are of the files, as in Hruska, does not meet applicant's claimed database of computer files.

Furthermore, applicant respectfully asserts that the figures and associated excerpt from Le Pennec relied upon by the Examiner simply teach “[a] specific process [that] associates a Certificate, called virus-free Certificate (VC), with a file in order to speed up and improve the virus detection.” Additionally, Le Pennec discloses a “Virus-free Certificate Cache Table, [which] is dynamically built by the VCC and comprises a local copy of Virus-free Certificate which have been transmitted through the LAN/WAN network” and that “[t]he table (501) comprises for each file, one or multiple associated Virus-free Certificates” (Col. 14, line 66-Col. 15, line 4 – emphasis added).

In addition, Le Pennec discloses that the Virus-free Certificate Section includes fields for a “Virus-free Certificate (509),” a “Last_Date (510),” and a “Number_Hits (511)” (Fig. 5), where the “(511) Number_Hits ... is the number of requests (hits) that have been received by the VC Cache to retrieve this VC” and that “[t]ypically, this number of hits is used when the VC Cache is maintained and when for instance the records with the lowest number of hits have to be deleted” (Col. 15, lines 50-54 – emphasis added). Further, Le Pennec discloses that ‘(704) tests whether or not the VC Cache Table is full: If the VC Cache Table is full: (705) deletes some record of the VC Cache Table (706)” and “[t]ypically, the records which are deleted are selected according to the “Last Date” and “Number_Hits” fields’ (Col. 17, lines 58-64 – emphasis added).

However, the mere disclosure that the Number_Hits are used when the VC Cache is maintained and in the instance when the VC Cache Table is full and the oldest records have to be deleted or the records with the lowest number of hits have to be deleted in no way suggest a technique “wherein said assessment computer stores a database of computer files and said database includes for each computer file a persistence flag indicating whether an entry relating to said computer file should be purged from said database during purge operations” (emphasis added), as claimed by applicant. Clearly, allowing a record to be deleted when the table is full based on the Last_Date and

- 19 -

Number_Hits fields, especially where such Number_Hits field identifies a number of hits, fails to suggest any sort of "persistence flag," in the manner as claimed by applicant.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has incorporated at least a portion of the subject matter of Claim 13 et al. into the independent claims.

With respect to the subject matter of Claim 13 et al. (now incorporated in part into the independent claims), the Examiner has relied on the following excerpts from Hruska, as well as Figure 5 from Le Pennec (reproduced above), to make a prior art showing of applicant's claimed technique "wherein said database includes for each computer file fields specifying a filename of said computer file, data identifying said requesting computer and a storage location of said computer file, and a checksum value calculated from said computer file."

Again, applicant respectfully asserts that the excerpts from Hruska relied upon by the Examiner merely teach that "[a file's] checksum...is added to the file server's list of checksums of authorized files" and that "[t]his procedure may be used in addition to the

- 20 -

inclusion in files of data indicating whether the file has been authorized or barred from use.” However, Hruska’s disclosure of an authorized file’s checksum being stored in a file server’s list of checksums in no way suggest a technique “wherein said database includes for each computer file fields specifying a filename of said computer file, data identifying said requesting computer and a storage location of said computer file, and a checksum value calculated from said computer file” (emphasis added), as claimed by applicant.

Furthermore, with respect to the Le Pennec reference, applicant respectfully asserts that “FIG. 5 describes the Virus-free Certificate Cache Table according to the present invention” (see Col. 6, lines 46-47), and that “[i]n the VC Cache Table..., each file is identified by...the file name, the file type, optionally, the file size, [and] the file CRC” (see Col. 15, lines 5-10 – emphasis added). However, merely disclosing that the file is identified by the file name, file type, file size, and file CRC simply, as in Le Pennec, fails to even suggest a technique “wherein said database includes for each computer file fields specifying a filename of said computer file, data identifying said requesting computer and a storage location of said computer file, and a checksum value calculated from said computer file” (emphasis added), as claimed by applicant.

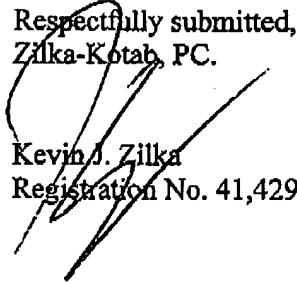
Again, applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Thus, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

To this end, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

- 21 -

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P468/01.054.01).

Respectfully submitted,
Zilka-Kotab, PC.


Kevin J. Zilka
Registration No. 41,429

P.O. Box 721120
San Jose, CA 95172-1120
408-505-5100